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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/905,423

07/13/2001

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81230.62US2

4720

34018 7590 03/17/2008

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EXAMINER

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ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* PATRICK H. HAYES and STEVE LANPING HUANG

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Appeal 2007-3488  
Application 09/905,423  
Technology Center 2600

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Decided: March 17, 2008

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Before MAHSHID D. SAADAT, SCOTT R. BOALICK,  
and KARL D. EASTHOM, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 7-10, and 13-27, which are all of the claims pending in this application as claims 1-6, 11, and 12 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants invented a method and a system for using a hand held device having a display for providing information related to the operation of a consumer appliance, such as a user manual (Spec. 3). The appliance is adapted to communicate with the hand held device while the hand held device communicates with a Web site to retrieve instructions and electronic documents relevant to the appliance (*id.*).

Claim 7, which is representative of the claims on appeal, reads as follows:

7. A method of displaying information to a consumer relevant to the operation of a consumer appliance, comprising:

entering into a hand-held device data that functions to identify the consumer appliance;

uploading the data that functions to identify the consumer appliance from the hand-held device via a wide area network to a Web server located remotely from the consumer appliance;

using the data that functions to identify the consumer appliance at the Web server to retrieve an electronic document comprising human-readable information in a form for instructing a consumer how to interact with one or more controls of the consumer appliance for the purpose of operating the consumer appliance; and

transmitting the electronic document from the Web server via the wide area network to the hand-held device whereby a representation of the electronic document is displayable on the hand-held device.

The Examiner relies on the following prior art in rejecting the appealed claims:

Allport	US 6,104,334	Aug. 15, 2000
Ketcham	US 6,195,589 B1	Feb. 27, 2001
Kolawa	US 6,236,974 B1	May 22, 2001
Amro	US 6,507,762 B1	Jan. 14, 2003 (filed Mar. 31, 1999)
Daum	US 2003/0046377 A1	Mar. 6, 2003 (filed Dec. 27, 2000)

Claims 7, 8, 10, 13, 14, 16, 17, 23, 25, and 27 stand rejected under 35 U.S.C. § 103(a) based upon the teachings of Daum and Allport.

Claims 9, 15, and 26 stand rejected under 35 U.S.C. § 103(a) based upon the teachings of Daum, Allport, and Ketcham.

Claim 18 stands rejected under 35 U.S.C. § 103(a) based upon the teachings of Daum, Allport, and Kolawa.

Claims 19-22 and 24 stand rejected under 35 U.S.C. § 103(a) based upon the teachings of Daum, Allport, and Amro.

Rather than reiterate the opposing arguments, reference is made to the Briefs (Substitute Appeal Brief filed Dec. 26, 2006 and Reply Brief filed Nov. 20, 2006) and the Answer (mailed Nov. 7, 2006) for the respective positions of Appellants and the Examiner.

We affirm.

## ISSUES

1. Under 35 U.S.C § 103(a), with respect to the appealed claims 7, 8, 10, 13, 14, 16, 17, 23, 25, and 27, would the ordinarily skilled artisan have

found it obvious to modify Daum with Allport to render the claimed invention unpatentable?

2. Under 35 U.S.C § 103(a), with respect to the remaining appealed claims, would one of ordinary skill in the art at the time of the invention have found it obvious to combine Daum and Allport with Ketcham, Kolawa, or Amro to render the claimed invention unpatentable?

#### FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issue involved in the appeal and are supported by substantial evidence.

##### *Daum*

1. Daum provides for a method and apparatus used in service diagnostics of appliances wherein a diagnostic interface is used to diagnose and service the appliance by connecting to a remote system and obtaining service diagnostic information. (Abstract).

2. FIG. 1 of Daum illustrates a service diagnostic system 100 that includes a diagnostic interface 110, a local area network connection 120, an appliance 130, and a remote system 140. The appliance 130 may be, as examples, a refrigerator, microwave oven, convection oven, stove, heating system, cooling system, lighting system, and the like. The remote system 140 may be a remote service center and may maintain a database 150 of appliance diagnosis information, stored by the appliance type and serial number, for example. (¶ 0021).

3. FIG. 2 of Daum depicts an implementation of the diagnostic interface 110 which includes a display device 210, a microprocessor or processing circuitry 220, a PC card (or other expansion bus) interface 230, a power line carrier modem 240, and an appliance bus interface 250. (¶ 0022).

4. Daum teaches that the PC card interface 230 allows PC cards to be connected to the diagnostic interface 110. Expansion cards thereby allow the diagnostic interface 110 to communicate with the remote system 140 (such as a remote service center) to receive programs, diagnostic routines, upgrade messages, and the like. (¶ 0025).

4. The diagnostic interface 110 may, for example, be implemented as a graphical user interface (GUI) that allows the service technician to use the capabilities of the diagnostic interface 110 to diagnose and service the appliance 130. (¶ 0053).

5. Through the GUI, Daum discloses that the service technician accesses diagnostic software on the diagnostic interface 110. The diagnostic software enables access to superuser level functions in the appliance 130 and formulates commands and updates for the appliance 130 and the appliance's dedicated appliance controller. (¶ 0054).

*Allport*

6. Allport relates to a remote control for controlling a variety of consumer devices from various manufacturers using data downloaded from the Internet or other data sources. (Col. 1, ll. 18-23).

7. The remote control disclosed in Allport interacts with and gathers data from Internet or other data sources such as a PC, and makes use

of a wide variety of data thus obtained. Specifically, the remote control is capable not only of downloading device configuration information (i.e., IR command libraries) from the Internet as existing universal remotes are, but is also capable of receiving other Internet data that can be used in interacting with the controlled devices. (Col. 5, ll. 50-59).

8. Allport discloses controlling devices, that are not primarily for entertainment, from the “other” screen 40 which presents the consumer with a list of further available options appropriate for the specific devices such as kitchen appliances, a web browser on an advanced TV, a security system, a baby monitor, etc. (Col. 9, ll. 58-65).

9. Allport further provides additional “update” and “welcome” screens to the consumer to identify new devices for the remote control 10 and to load the required IR commands for the new devices into the memory of the remote. The screen also allows the consumer to add new title-based descriptions into the memory and to modify or create screen layouts that appear on the display of the remote control 10. (Col. 10, ll. 27-38).

#### PRINCIPLES OF LAW

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-988 (Fed. Cir. 2006), *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991) and *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such

that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007).

### ANALYSIS

The Examiner reads substantially all of the claimed features on the diagnostic interface device of Daum and further relies on Allport for obtaining the appliance information from a remote system such as a Web server (Ans. 3-4). Appellants contend Daum does not teach that the data related to the appliance is entered or stored and then retrieved for the purpose of being uploaded to a remotely located server (App. Br. 7-8). In particular, Appellants argue that the “diagnostic routines” disclosed in Daum cannot be equated with “an electronic document comprising human-readable information in a form for instructing a consumer how to interact with one or more controls of the consumer appliance for the purpose of operating the consumer appliance,” as recited in claim 7 (App. Br. 9-10).

The Examiner responds by stating that it is inherent that the devices that communicate with a remote system or Internet identify themselves before the queried information is received (Ans. 10). Asserting that basic Internet communication protocol is known, the Examiner takes the position that Daum inherently discloses entering into the hand-held device and uploading data that functions to identify the consumer appliance (Ans. 11).



Appellants argue that the claims do not recite that the appliances should identify themselves, but the hand-held device uploads data to a Web server to identify another appliance and to retrieve an electronic document for that appliance (App. Br. 11-12; Reply Br. 2-3). We disagree. Daum obtains the related data according to the appliance type and serial number from the database in the remote service center by providing the appliance information to the remote server (FF 1-3). As pointed out by the Examiner, the diagnostic routine for the appliance can be obtained only upon receiving the appliance identification in the diagnostic interface from the appliance and providing the information to the remote system. Additionally, since claims 7-10 or 13-23 do not specify the manner in which the identification of the appliance is entered or received in the hand-held device, the result would be the same whether the appliance enters the information by identifying itself to the hand-held device or the user enters the information. In that regard, we find that Daum discloses that the appliance ID is entered and provided to the remote server in order to obtain the relevant diagnostic routine. We also note that Daum, using the GUI, obtains other types of data in a readable format from the remote system, such as programs, diagnostic routines and upgrade messages, through entering information that are unique to the specific appliance as identified by the appliance information sent to the remote system (FF 4-5).

Appellants further argue that Daum's "diagnostic routine" cannot be read as an electronic document comprising human-readable information that instructs a consumer how to interact with the appliance's controls (App. Br.

9-10; Reply Br. 3). We disagree with Appellants that the claimed information retrieved from the Web server cannot read on the information received from the remote server in Daum. We find no distinction between the retrieved electronic document as claimed and the diagnostic information and other received commands or updates as disclosed in Daum. Appellants' Specification describes information related to a consumer appliance as information contained in a user manual or a user's guide. (Spec. 3:10-15; 44:3-10). Both Daum and Allport obtain the information related to the operation, diagnostic routines, and programs and functions available to the appliance from a remote system upon receiving the relevant identification information from the appliance and provide that information to the remote system or the Web server (FF 3-5 and 7-8). The fact that the data contained in the retrieved information from the Web server may be of a different nature (diagnostic routine vs. user manual) is of no consequence. The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the method. *See In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and our recent final decision in *Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005), *aff'd* (Fed. Cir. Appeal No. 2006-1003, *aff'd* Rule 36 June 12, 2006).

We therefore disagree with Appellants that the specific types of information or their relationship with the appliance type recited in the rejected claims distinguish the claims over the combination of Daum and Allport. One of ordinary skill in the art would have obtained the appliance

information, which is helpful to the user in operating and using the appliance, based on the prior art teachings by merely modifying the requests that obtain diagnostic routines such that other types of information would be obtained.

Similarly, we remain unconvinced by Appellants' arguments (App. Br. 9) related to claims 23-27 that the claimed browser application for reading appliance-specific information based on the appliance identification is absent in the teachings of the prior art references. As discussed above, the information obtained from the remote system of Daum and the Web server of Allport are both obtained based on applications that retrieve information specific to the appliance in a format that is usable to the consumer for diagnostics, control and programming of the appliance (FF 4-7).

Appellants further provide arguments with respect to claims 10, 16, and 27 which are focused on whether the combination of Daum and Allport teaches or suggests uploading the appliance identification information to obtain information related to a user's manual (App. Br. 13-14). Appellants' arguments basically reiterate the contentions related to the content of data which, as discussed *supra*, we found to be unpersuasive.

Therefore, in view of the analysis above regarding the content of the retrieved data, we find that one of ordinary skill in the art would have combined Daum and Allport to obtain different types of information related to the appliance based on the appliance identification. Accordingly, since we find no error in the Examiner's position, we sustain the 35 U.S.C.

§ 103(a) rejection of claims 7, 8, 10, 13, 14, 16, 17, 23, 25, and 27 over Daum and Allport.

With respect to the rejection of claims 9, 15, 18-22, 24, and 26 over Daum and Allport in various combinations with Ketcham, Kolawa, or Amro, Appellants also fail to point to any error in the Examiner's position. Accordingly, we also sustain the 35 U.S.C. § 103(a) rejection of these claims.

#### DECISION

The decision of the Examiner rejecting claims 7-10, and 13-27 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. 1.136(a)(1)(iv).

AFFIRMED

Appeal 2007-3488  
Application 09/905,423

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